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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,043

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Takayuki Matsui

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EXAMINER

CONTINO, PAUL F

ART UNIT

PAPER NUMBER

2114

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,043	<b>Applicant(s)</b> MATSUI, TAKAYUKI	
	<b>Examiner</b> PAUL F. CONTINO	<b>Art Unit</b> 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION: Final Rejection**

*Response to Arguments*

1. Applicant's arguments filed May 7, 2008, have been fully considered as stated below.
2. The Examiner respectfully disagrees with the Applicant's assertion on page 5 of the Remarks concerning the 35 USC 112, first paragraph, rejection of claim 10. The rejection still stands as presented in this Office Action.
3. The Examiner agrees with the Applicant's arguments on pages 5-6 of the Remarks concerning the inclusion of a limitation involving information indicating authenticity of original data is assured overcoming the applied prior art references Gunderson and Fisher et al.
4. The Examiner respectfully disagrees with the Applicant's arguments on page 7 of the Remarks concerning the allowability of claim 3. Claim 3 has not been rewritten in independent form to include its limitations as filed on October 15, 2007, in conjunction with the base claim 1 in its entirety.

***Claim Objections***

5. Claims 1, 3, 6, 8, and 10 are objected to because of the following informalities: the claims include the term "alternation" where "alteration" is consistent with the overall context of the claims. Appropriate correction is required.

6. Claims 3 and 10 are objected to because of the following informalities: the claims include the duplicate phrase "relating to relating to" in the last paragraph. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 10 states checking for altered data "based solely on the original data". If checking for alteration of data was based *solely* on original data and nothing else, there would be no way

to determine if the original data had been altered because there is no reference to the original data. The Examiner recommends including specifics as to how the checking is being accomplished.

\* \* \*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1 and 3-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3, 6, 8, and 10 recite the limitation "the list storing unit" in the last paragraph. There is insufficient antecedent basis for this limitation in the claim. Claims 4-5, 7, and 9 are rejected based upon their dependence to claims 1, 6, and 8, respectively.

9. Claims 3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 10 recite the limitation "the information relating to [[relating to]] original data" in the last paragraph. There is insufficient antecedent basis for this limitation in the claim.

10. Claims 3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 10 recite the limitation "the access deciding unit" in the last paragraph. There is insufficient antecedent basis for this limitation in the claim.

11. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 5 recite the limitation "the alteration deciding unit" in the last paragraph. There is insufficient antecedent basis for this limitation in the claim.

*\*\*Examiner Note: Because of the number of informalities and inconsistencies present in the claim language, the Applicant is encouraged to thoroughly review the entirety of the claims to ensure the invention is properly claimed and further informalities/inconsistencies may be avoided.*

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gunderson (U.S. Patent No. 6,073,220) in view of Fisher et al. (U.S. Patent No. 5,943,688).

As in claim 3, Gunderson teaches of an alteration checking apparatus, comprising:

a back-up unit that copies original data from an original data storage unit to a back-up storage unit as back-up data without checking alteration of the original data (*column 10 lines 21-43, where original data is stored on a primary drive and copied to a backup drive; no alteration checking is done during the time of data copying*); and

an alteration checking unit that, after copying of the original data as the back-up data is over, decides whether the original data has been altered based on original data stored in the original data storage unit and notifies a user of decide alteration (*column 10 lines 28-29 and 38-43, where the integrity checks compare original data to the back-up data and notify a user upon detection of a change in data*).

However, Gunderson fails to teach of a list storing unit relating to successfully copied data. Fisher et al. teaches of adding information in a list storing unit to information relating to original data that have been copied successfully as the back-up data and relating to original data that are decided to be not altered (*column 5 lines 56-60 and column 7 lines 51-54, where database 40 stores information related to successfully copied data*).

It would have been obvious to a person skilled in the art at the time the invention was made to have included the information addition as taught by Fisher et al. in the invention of

Gunderson. This would have been obvious because the invention of Fisher et al. ensures integrity of backed up data (*column 3 lines 1-11*).

***Allowable Subject Matter***

13. Claims 1 and 4-10 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

14. The following is a statement of reasons for the indication of allowable subject matter:

As in claims 1, 6, 8, and 10, the limitation involving an indication assuring authenticity of original data, when read within the remainder of the limitations of the respective claims, makes claims 1, 6, 8, 10, and their respective dependent claims, allowable over the prior art.

***Conclusion***

15. Applicant's amendment necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL F. CONTINO whose telephone number is (571)272-3657. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott T Baderman/  
Supervisory Patent Examiner, Art Unit  
2114